(1) FILED

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No. OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

Lindsey K. Springer,

Petitioner,

v.

Alabama, a Union State, et al.,

Respondents.

Writ of Certiorari

ON WRIT OF CERTIORARI FROM THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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43pp

QUESTION(S) PRESENTED

1. Whether the Eleventh Amendment prohibits a Citizen of one State from commencing an action against the same State involving issues which solely exist based upon the United States Constitution?

2. Whether the Eleventh Amendment prohibits a Citizen of one State from commencing an action against another State involving issues which solely exist based upon the United States Constitution?

3. Whether a sanction imposed sua sponte by the 10th Circuit Court of Appeals to offset the costs of the Clerk is a tax subject to the powers to tax in the Constitution?

4. Whether a sanction imposed sua sponte by the United States Courts, which is not pursuant to any bill for raising a revenue under Article I, § 7, is an Unconstitutional exercise of the Court's limited powers?

5. Whether the decision announced in Hans v. United States, 134 U.S. 1, was intended to reach issues arising under Article II of the United States Constitution?

LIST OF PARTIES

[ ]All parties appear in the caption of the case on the cover page.

[X]All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgement is the subject of this petition is as follows:

ALABAMA, a Union State;
ALASKA a Union State;
ARIZONA, a Union State;
ARKANSAS, a Union State;
CALIFORNIA, a Union State;
COLORADO, a Union State;
CONNECTICUT, a Union State;
DELAWARE, a Union State;
FLORIDA, a Union State;
GEORGIA, a Union State;
HAWAII, a Union State;
Idaho, a Union State;
ILLINOIS, a Union State;
INDIANA, a Union State;
IOWA, a Union State
KANSAS, a Union State;
KENTUCKY, a Union State;
LOUISIANA, a Union State;
MAINE, a Union State;
MARYLAND, a Union State;
MASSACHUSETTS, a Union State;
MICHIGAN, a Union State;
MINNESOTA, a Union State;
MISSISSIPPI, a Union State;
MISSOURI, a Union State;
MONTANA, a Union State;
NEBRASKA, a Union State;
NEVADA, a Union State;
NEW HAMPSHIRE, a Union State;
NEW JERSEY, a Union State;
NEW MEXICO, a Union State;

NEW YORK, a Union State;
NORTH CAROLINA, a Union State;
NORTH DAKOTA, a Union State;
OHIO, a Union State;
OKLAHOMA, a Union State;
OREGON, a Union State;
PENNSYLVANIA, a Union State;
RHODE ISLAND, a Union State;
SOUTH CAROLINA, a Union State;
SOUTH DAKOTA, a Union State;
TENNESSEE, a Union State;
TEXAS, a Union State;
UTAH, a Union State;
VERMONT, a Union State;
VIRGINIA, a Union State;
WASHINGTON, a Union State;
WISCONSIN, a Union State;
WEST VIRGINIA, a Union State;
WYOMING, a Union State;

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1999

Petitioner respectfully prays that a Writ of Certiorari issue in review of the judgement below.

OPINIONS BELOW

[x] For case from federal court:

The orders of the United States District Court appear at Appendix A to the petition.

The orders of the United States Court of Appeals for the Tenth Circuit appear at Appendix A to the petition.

JURISDICTION

[x] For cases federal court:

The date on which the United States District Court issued it order; November 9, 1999.

The date on which the United States Court of Appeals for the Tenth Circuit Affirmed District Court's Order; March 24, 2000.

Petition for Rehearing En Banc was denied on April 19, 2000.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1651(a). as well as Original Jurisdiction under Article III.

THIS PETITION IS IN AID OF APPELLATE JURISDICTION

AND ALTERNATIVELY, AN ORIGINAL ACTION UNDER ARTICLE III

CONSTITUTIONAL AND STATUTORY PROVISIONS

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I. STATEMENT OF THE CASE

Petitioner is a natural born Citizen of Oklahoma, born in Tulsa, and will be 35 years old on September 11, 2000, meeting all the qualifications to be President.

This case began technically on November 18, 2000, where after petitioner was notified by the Federal Election Commission that to obtain Ballot Access to each State's Ballot for President, petitioner would be required to communicate directly with each State and that the proper person to contact was named in the "Ballot Access for President" "publication" ("Directory") published by the Federal Election Commission ("FEC").

Petitioner sent by certified mail, restricted delivery to the person so identified in the publication, a formal letter requesting access to all Ballots involving the election of a President for the year 2000.

Petitioner gave each State 30 days to communicate in response to the formal letter seeking Ballot Access.

Almost one-half of the States refused to even acknowledge petitioner's notification regarding Ballot Access.

The other half responded by informing petitioner that they were not accepting petitioner's qualifications and that if petitioner desired to gain access to the general election ballots, petitioner would be required to comply with each responding State's Legislation governing Ballot Access.

Petitioner commenced litigation on January 4, 1999, wherein each State was named in the caption of the case seeking relief under Title 42, section 1983, and Title 28, section 1331, for Federal Question Jurisdiction arising under Article II, section 1, Cl. 2 and 5.

Forty-Four defendant States moved to dismiss on Eleventh Amendment immunity grounds. Two defendant States filed "answers" to the complaint.

Petitioner timely amended his complaint naming in the body of the case the names of the persons the evidence showed received by certified mail petitioner's formal letter.

Forty-Six States moved to dismiss the amended complaint on grounds that the Eleventh Amendment prohibited the action, venue did not lie in the United States District Court for the Northern District of Oklahoma, and petitioner failed to state a claim to which relief can be granted.

On November 9, 1999, the District Court dismissed the action based upon Eleventh Amendment Immunity and as to the Four defiant defendants, the Court moved sua sponte to allow them the relief afforded the Forty-Six States who entered an appearance.

On November 15, 1999, petitioner filed his notice of appeal while at the same time filing new litigation with the district court correcting the caption of the case per the Court order.

On March 24, 2000, a three judge panel with the 10th Circuit Court of Appeals entered an order affirming the District Court's Order and further eventually ordered petitioner to pay $ 1000 tax to the Court Clerk to offset the costs the Clerk endured involving this appeal.

Petitioner objected to the Court's taxing authority and filed a Petition for Rehearing En Banc since it appeared futile to request rehearing to the very prejudicial panel who said nothing and took everything by their very biased order.

The Petition for Rehearing was denied on April 19, 2000.

This Writ of Certiorari follows.

2. REASONS FOR GRANTING WRIT.

A. Eleventh Amendment not Bar.

The Tenth Amendment says "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Article I, section 10 in part prohibits States from "impairing the obligation of a contract."

The Supreme Court in Hans v. Louisiana, 134 U.S. 1, said that "it is inherent in the nature of sovereignty not to be amenable to the suit of an individual without [a State's] consent.'" Seminole Tribe of Florida v. Florida, 517 U.S. 44(1996)

In Hans, a Citizen of a State sued the State he was a Citizen of for contract violations to which that State had committed involving bonds sold with a promise to pay both interest and principal by a specific time.

Article I, Section 10 prohibits any State, including the State a person lives in, from impairing the obligation of a contract, which clearly includes contracts to which the State is a party. This is a power the 10th Amendment places in the United States Government to police.

The Supreme Court rationales that "unless their is a surrender of this immunity in the plan of the convention, it will remain with the states..." Hans @ 13

Furthermore, to characterize the Eleventh Amendment's erroneous turn, the Court also concluded the nature in Hans was that "there is no color to pretend that the state government would, by the adoption of that plan, be divested of the privilege of paying their own debts in their own way, free from every constraint but that which flows from the obligation of good faith." Id

The Court characterized the alternative as being a "waging war against contracting

state..." and that to allow a State to be sued in federal court would be a "destruction of a pre-existing right of the state governments,.." Id

Even if this Court would desire to keep States from being subject to the Judicial Power of the United States involving Contract disputes between a State and its Citizens, prohibiting a State from violating a natural born persons right to seek the office of President can be distinguished.

The only constitutional right seemed overlooked or completely avoided by the Hans Court is that where Article I, Section 10, specifically says that each State entered into this Union would not "impair the obligation of a [any] contract."

States have argued in this case that the term "ballot," present and agreed to by those States ratifying the Constitution and those States entered into this Union on an equal footing with the original States, in the

constitution, should be so treated as a illusory term with no intended meaning.

This seems to be the rationale of the Hans Court that the term "another State" really means "a State" regardless of where a Citizen lives.

Even if the Hans complaint was only actionable in Louisiana, an action against the State for directing or denying Ballot Access to a otherwise qualified candidate for President is not an issue which Sovereignty can protect.

In Williams, et al., v. Rhodes, Governor of Ohio, 393 U.S. 23, this Court said "[T]he Constitution is filled with provisions that grant Congress or the States specific power to legislate in certain areas; these granted powers are always subject to the limitation that they may not be exercised in a way that violates other specific provisions of the Constitution."

This Court went further in Williams to say that "No State can pass a law regulating elections that violates the fourteenth amendment's command that 'No State shall...deny to any person...the equal protection of the laws." Id. @ 29

It is hard to imagine any deprivation which each State could simultaneously participate in equal to the impact of the election of a President. Petitioner knows not one other instance save the selection of a Vice President. In fact, why not do away with the word of "election" and "elector" and replace them with "selection" and "selector."

Why not just let each State pick who they want as President? Just run it through the State legislature. Why not let each State control what a person has to do, be, and act like, in order to be that States Presidential "selection?" Why not just disregard Article II of the Constitution? Just through it away because the words

therein do not mean anything which can be counted on by any person seeking the office of President. We should just let the media decide who should be in that office.

Why your at it, just through away Article III regarding any issue raised between a Citizen of a Union States and that Union State, because these words also mean nothing. Oh, can't do that because this would through away the Supreme Court. Hum.

Sure you can. The Eleventh Amendment relies upon the term "another State" and yet the issue is purportedly so clear that your petitioner's right to appeal future cases was suspended until a unconstitutional tax of $ 1000 was paid to the arbitrary quasi legislator called the Tenth Circuit Court of Appeals. They did not stop at imposition either. They forced payment by suspending appeal rights.

Just throw away what ever you want. Like the Hans Court did in 1890. Even though

States are so specifically prohibited from impairing any obligation of a contract, this Court overruled these words directly. It is no wonder the South rebelled against the North.

Certainly what petitioner is about to say will divide this Court. "We start with the first principals. The Constitution creates a Federal Government of enumerated powers. See Article I, § 8. As James Madison wrote, "[t]he powers delegated by the Constitution to the federal government are few and defined. Those which are remain in the States governments are numerous and indefinite." United States V. Lopez, 514 U.S. 549, 552.

This Court further characterized the balance of power between the States and the Federal Government as "healthy" and for the purpose of "reducing tyranny and abuse from either front." Id An inferior court created by Congress in support of its Article III

limited powers, writing tax laws and enforcing them as a executive power might, is tyranny against the Constitution. Oh hum, so.

While this Court was determining the meaning of "among the several States," for purpose of Article I, § 8, Cl. 3, to mean more States than one (the substantial effects test), it determined an continued a determination of an imaginary line which divides the power of the States to regulate Commerce with the power of the United States to regulate commerce.

This Court referred to Article I, § 8, Cl. 3 as a "delegation of power" to the United States in the Constitution.

Furthermore, in defining "these words," this Court said "Comprehensive as the word 'among' is it may very properly be restricted to that commerce with concerns more States than one." Id; quoting Gibbons v. Ogden, 9 Wheat 1, 189-190(1824).

The Hans decision was written during a

time period where this Court was expanding the reach of the Federal Government into the internal affairs of the States. With this recent move away from this intention and the words relied upon to support this move, those words put the interpretation of the Constitution by this Court at odds with itself. The Bible teaches that a "house divided against itself cannot stand."

If intrastate activities which "have such a close and substantial relation to interstate commerce that their control is essential or appropriate to protect that commerce from burdens and obstructions 'are within the Congress' power to regulate,'" then how much greater is an activity which currently is being interpreted to allow each of the 50 States to burden and obstruct a natural born persons right to seek the very federal office of President. Id @ 555

The trafficking of what has been manufactured, for instance a firearm, could

never be in more than one State at any given moment. However this Court has interpreted the term "make" to mean not actually made. United States v. Thompson, 504 U.S. 505 (1992) Expanding Congress' authority to impose a unknown power to tax on a non existent activity of "making a firearm" in direct conflict with Article I, Section 9, Cl. 5, where the Constitution forbids any sovereign from imposing a "Tax or Duty on any Article exported from any States. Supra

This Court determined that "manufacturing" on the one hand was a "derivative" of "make" or "made" involving Congress' ambiguous term of art "make," while in commerce, "production, manufacturing, and mining" "succeeds" to these terms and "is not a part of it [commerce]." Lopez @ 554

After applying the ordinary rules of statutory construction, this Court determined that in Thompson, section 5845 was an "ambiguous statute." Since the

constitutionality was not challenged, this Court merely found in Thompson's favor.

The Hans Court, where met with the Constitutional challenge of a "State impairing the obligation of a contract," which were specific words in the Constitution, used a rationale to avoid the intent and ramification that Article I, Section 10 was adopted to prevent, that would have sparked a civil war between the those persons obeying the Constitution and those persons evading it.

This Court has adopted a specific meaning behind "evasion" and "avoidance." "Failure to pay the tax...amount to evasion, not avoidance. In our system, avoidance of a tax by remaining outside the ambit of the law that imposes it is every persons right. Over and over again courts have said,...;taxes are enforced exactions, not voluntary contributions." Thompson @ 510

Even under Tax authority, this Court has

recognized words in the constitution are carefully considered and put there and are not intended to be dealt with passively.

Furthermore, this Court in Security Law Challenges has created a "elastic" principal rather than specific construction expanding the term "broad" meaning to mean infinity times infinity times infinity. S.E.C. v. Howey, 328 U.S. 298 (1946)

Petitioner is so happy this Court cannot redefine what God meant in the 10 commandments. Could you imagine this Court striking down a commandment because it was ambiguous. Whoops, I guess, if this Court could invalidate the First Amendment, maybe petitioner's rationale is not so far fetched.

In U.S. Term Limits, Inc. v. Thorton, 514 U.S. 779(1995), this Court took notice of the striking "unanimity among the courts" regarding whether additional "qualifications" other than those in the U.S. Constitution, may be added and enforced involving seats in

the House of Representatives, the election of which involving the time, place and manner reserved to the States by Article I, § 4.

In sighting numerous decisions, this Court concluded the qualifications are not amendable or changeable by the States. One note worth quoting arrives at page 799 where this Court said "T. Cooley, General Principals of Constitutional Law 268(2.Ed. 1891)([']The Constitution and laws of the United States determine what shall be the qualIfications for federal offices, and state constitutions and laws can neither add to nor take away from them[']).."

All persons not disqualified by the terms of the instrument should be eligible to the federal office of Representative.

"It was neither necessary nor proper to define the powers retained by the States. These powers proceed, not from the people of America, but from the people of the several States; and remain, after the adoption of the

constitution, what they were before, except so far as they may be abridged by that instrument." Sturges v. Crowninshield, 4 Wheat 122, 193(1819).

What part of the election of a President was held by the States prior to the adoption of the Constitution? There could be none since the office of President was created by the Constitution. This being undisputed by any State defendant, the Eleventh Amendment was clearly not nor could be intended to prohibit a person seeking the office of President, who had to interact in some regard with each State to achieve the common goal of obtaining the confidence and vote of the appointed Electors, from bring each State into Federal Court to compel the State to act according to the Constitution.

This is quite different than bringing the State into Federal Court with the possibility of having its coffers drained by order of a Federal Court as in Hans. In this

Case, not one penny is at issue other than the possibility of future litigation for EEOC violations involving denial by the States of Equal Employment opportunities.

By no means does this petitioner agree with the Hans decision. Petitioner hopes he has made himself clear on this issue.

This Court went on to say that "The text of the Tenth Amendment unambiguously confirms this principal." Term Limits @ 801

Justice Story recognized that "the States can exercise no powers whatsoever, which exclusively spring out of the existence of the national government, which the constitution does not delegate to them...No state can say, that it has reserved, what it never possessed." 1 Story § 627; Id @ 802

"Representatives and Senators are as much officers of the entire union as is the President." Id @ 803 "It is no original prerogative of state power to appoint a representative, a senator, or president for

the union." Id

"[T]he provisions governing elections reveal the Framers' understanding that powers over the election of federal officers has to be delegated to, rather than reserve by, the States." Id @ 805 "In the absence of any constitutional delegation to the States of power to add qualifications to those enumerated in the Constitution, such a power does not exist." Id

The Union States argue that their power to "appoint Electors" is plenary and that this Court has so ruled. This rationale of controlling the time, place and manner for Congress is to avoid confusion and the cluttering of the ballots. They also argue they can add "reasonable requirements" for "ballot access."

No one can argue that "ballot access" is a paramount step in obtaining the office of President. States appear to be able to justify refusal of any person seeking a

federal office who does on its face meet the "qualifications" established for such office.

States claim that it is essential to write State laws involving the "appointment of Electors" which infringes upon a persons right to seek the office of President. Their rationale is that otherwise, "any person could be on the ballot."

If this legislation did in fact go beyond the "delegation" in Article II, what forum would any person affected complain? How would a person complain they were affected? These questions, which are fundamental to a "judicial" remedy, simply are answered by complaining to a disinterested and unbiased third party, namely the United States [thought only].

Where would this forum be "enumerated" or "delegated?" Answer, hope, of course, the Constitution. Under the rationale that any person affected by these State Laws, which arguably infringe outside their intended

usage, could seek redress, if a person obtained a decision in One State Court who also may have to comply with judicial decision in opposition to anther State Court interpreting the National Constitution.

This would mean that this Court's interpretation of the intent behind the National Constitution was to allow each State to interpret what "appoint Electors" means and how that appointment interacts with a person seeking the office of President.

If this is true, then we do not need this Court anymore. States are very capable of determining what they think the Constitutions "delegations" mean. States each are required to have a "Supreme Court." In this regard, why have a removal statute. States could entertain suites in law or equity against the United States and enter declaratory and injunctive decisions respectively. States could also easily enter decisions which find certain provisions of

the National Constitution repugnant to their sovereignty. Where does this train wreck or catastrophe end? Hopefully, this Court decides the United States can not play God anymore and get away with it.

When the scale of blind justice becomes so tilted one way and the blind fold is see-through mesh, the only thing to do without determining the other side is no longer needed, is to allow the blind fold to either be replaced with some dark material, or allow the blinded to watch the scale of justice tilt back to an acceptable balance where the Constitution, and its specific terms, are not open to interpretation nor ambiguity.

This Court knows what petitioner is saying. Petitioner knows what this Court has said. This Court "avoids" at all cost having to determine a statute unconstitutional. Petitioner has not as of yet been allowed to challenge any statute because there has been no discovery and no claim by any State that

they are acting in accordance with the Supreme Law of the Land.

The only argument thus far is that the Eleventh Amendment prohibits this action, their is no "national venue Statute" and that to the degree of one defendant, where petitioner lives, the district court recently determined that States have the authority under Article I, Section 4 to regulate the "time, place and manner" of a Presidential Election.

Petitioner has argued and will continue to argue that "general election ballots" and the "ballot" which "Electors" cast their votes, are two separate ballots. The States have argued that the term ballot in Article II has no meaning.

Petitioner has and still argues that States may regulate the "time, place and manner" of political party elections, even though "political parties" may associate under the first amendment, and stay outside

the ambit of the States regulatory power.

During the "general election," where States engraft reasonable requirements for election of a Congressman, it is clear that the election of a President is not taking place by this election. This general election is an election for electors, not President, generally speaking. With 50 different interpretations of what Article II means, some have one way and others the next.

Congress certainly has the power to write what a national requirement would be to "obtain" ballot access if the States chuse to continue with their current tyranny.

The access to a ballot in one State, if Federal in nature, would serve no legitimate purpose to make access in 49 other States totally unrelated or completely different. There is some distinguishable differences between an election of a Congressman with that of a President. There is also distinguishable differences between these

offices and that of this Court's "Office."

Certainly, Justice Thomas would consider what he had to go through a nightmare. To each his or her own.

As for President, Congress dictates the time for the "Elector" election of a President. See Article II, Section 1, Cl.4 For Congress, the States may so control. The Constitution controls the place where the Electors vote for President, "in the State" where as the States were delegated to control the "place" where votes for Congressman are taken.

The manner question is the most inapposite. Petitioner argues that the "manner" of the election of a President, which never mentions "general election ballot" or "general election," defines manner by literally taking Article II and the 12th Amendment and reading them in their entirety. In this regard, States play a small role in the manner, and have absolutely no control

over who is allowed to seek the office of the President.

However, the affect of the defendant States in this action no one disputes has stopped petitioner from seeking the office of President. The rationale is that so long as everyone has to go through what petitioner has gone through or would go through, the "go through" is constitutionally protected by Article II as a reservation of power.

The States have emphasized the difference between "qualification" and "requirement." No one disputes that qualifications are a requirement. The dispute is whether States can make "requirements" that go beyond the qualifications. Although this Court has painted with a broad brush in this regard, the term "requirement" and "qualifications" is a game of semantics.

Where does the States power to place "requirements" on a person seeking the office

of President come from? It does not come from power before held. It does not come from the delegation to "appoint Electors." This says "Electors" not "Presidential Office Seekers."

States do not have any power to affect a person's right to seek the office of President. If a person wants to be an Elector, they may seek that office, whatever that takes. To add insult to this injury, the General Election Ballot, which is not a Constitutional Presidential Election because the Electors have not been "appointed" yet, and to which is said to be the "election" of "Electors," does not name the person seeking the office of Elector, it names the person seeking the office of President.

States are regulating the office of President by claiming to be regulating the "appointment of Electors" during the general Election.

There are five federal offices created

by the National Constitution which did not exist nor would exist if it were not for the Constitution. Namely, these offices are Representative, Senator, Elector, President, Justice.

Each holds a specific function in the Election of a President. States have a control over each of these functions to speak their will conclusively. First, the House of Representatives changes every two years and is an election held in each State where the people of each State vote their representative in. The State controls the time, place and manner of this election.

Second, Senators are currently elected in the same manner as the Representatives accept they are elected for a longer term and sit in the other side of the House.

Electors are "appointed in a manner the legislature thereof" may direct. Electors must be "appointed" first in order to carry out Article II, § 1, Cl. 3 and the 12th

Amendment. The general election is not the election of a President. Though, this general election looks like the election of a President and in all parts produces the same result as a "Elector" election.

What States have done is create a mini Presidential Election, prior to the Election of Electors, which is prior to the Election of a President according to the Constitution.

A person cannot be named on a ballot before the Electors previously appointed unless he wins this mini Presidential Election. States control this mini Presidential Election by forcing any person seeking the office of President must first go out and show they have popular voter support.

No one disputes that with only a basic two party system, any effort outside of these two parties is futile. This Country today has almost 300 million people and only two ways of promoting ideas. Even this Court issues "plurality opinions" (majority) which

only three out of nine judges agreed, yet *this "opinion" is binding. Petitioner has* even read cases where it is hard to distinguish the "Supreme Law of the Land" because basically no one agrees with anyone else or even that a judge disagrees with him or herself.

It is time to overhaul the way this Country chuses its next President and the ball is in this Court's hands. If this Country is going to make it even a few more years it must continue to lead the way to a "top" and not try to remain at the "top" it has artificially created.

If this World is to model their laws and governments after our laws and manner, this World needs to see what the role of the Judicial Branch is when all activism has been set aside.

If you do not wish to collectively use your position in government to overhaul this system, which starts at the top and bottom,

when asked, which gives you jurisdiction to act, *then at minimum*, this Court should recognize that as it tips justice back and fourth from one decision to the next, any advisary to our nation, which is purportedly a "rule of law," will easily persuade others to dissent against this nation.

Petitioner does not doubt that this Court appears to be like a dysfunctional family. But a dysfunctional families first step would be to admit its disfunction and to take steps to change its function. This Court, as a family function, is to rule the law valid or void and to affirm or reverse lower court decisions that are both contrary to the laws of this land and the Constitution.

Allowing Congress to enact 28 U.S.C. § 1911 through 1914, which makes this Court and the inferior courts converted into legislatures, writing tax laws ad hoc, and then both imposing sanctions in favor of the

United States Clerk for its costs of dealing with a action appealed as of right, even where the United States was neither a plaintiff or defendant, is unconstitutional and violation of the separation of powers doctrine.

B. Court power to Tax Unconstitutional.

If the above does not get your attention, then petitioner claims that the Judicial Conference, per statute, is a unconstitutional exercise of Congress' power.

It attempts to join the legislature and all its powers with the judicial and all its powers. The result of which is the judicial believes it has the authority to tax by saying "may be taxed against the litigants as the court directs." See 28 U.S.C. 1911

Petitioner called the circuit executive office in Washington to ask what power this Tax was based upon in the Constitution. The Circuit executive said the term "tax" in the constitution and the term "taxed" in 28

U.S.C. § 1911 through 1914 did not actually mean the same thing. He said in section 1911 through 1914 that it meant fee.

Could you imagine this semantic game. This then begged the question "What power to impose a fee on any Citizen does Congress rely?" If Congress could convert the power to tax to a power to impose a fee, there would be no need for any power to tax.

A fee is a tax just like a penalty or interest in the tax laws. Furthermore, what limitation in the Constitution governs the Power to impose fees? That's what petitioner thought, there is none. No guidance, no legislative history. Government gets its revenue only one way through the power to tax. State or Federal it just does not matter. See, petitioner did not need two hundred years of artful opinions to come to his conclusion. And this court does not either.

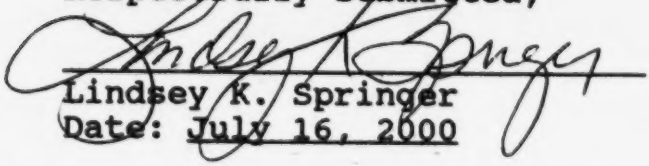
CONCLUSION

Petitioner believes that the questions involved in this writ, which hinge upon whether States power to control the Presidential Election is Constitutional; whether the term "another State" means the same State as a person lives in for Eleventh Amendment application involving questions of non-monetary Constitutional proportion; whether this Court will sustain the rationale in Hans and whether or not this Court will distinguish issues originating by a State and those which only exist by the National Constitution; whether States can regulate the selection of a Presidential Office Seeker by claiming reserved power under Article II, § 1, Cl. 2 immunity; whether actions involving two diverse parties or 50 divers parties which has in controversy the direct meaning of terms in the Constitution is required to be settled by the United States Judicial Branch; whether Congress can delegate its

power to conclusively write tax laws for raising a revenue under Article I, § 7 to the Judicial Branch of Government; whether the Judicial Branch, inferior or otherwise, when lowering itself to legislator, is subject to the same limitations imposed upon Congress in the Constitution governing the powers and regulations over the powers to tax;

Therefore, the petition for Writ of Certiorari should issue.

Respectfully Submitted,



Lindsey K. Springer
Date: July 16, 2000

Supreme Court, U.S.
FILED
(2)
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OFFICE OF THE CLERK

No.

IN THE SUPREME COURT OF THE UNITED STATES

Lindsey K. Springer,

Petitioner,

v.

Alabama, a Union State, et al.,

Respondents.

Appendix A

ON WRIT OF CERTIORARI FROM THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Lindsey K. Springer
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2100

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IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

LINDSEY K. SPRINGER,
Plaintiff,

FILED 11-9-99

V.

Case No. 99-CV-3-BU

ALABAMA, a Union State, et al.,
Defendants.

O R D E R

This matter comes before the Court upon the motions to dismiss filed by Defendants, Maryland, West Virginia, Oklahoma, Minnesota, Connecticut, Montana, Indiana, Hawaii, New York, Rhode Island, Kansas, Nevada, Texas, California, Arizona, Vermont, Ohio, Colorado, Pennsylvania, Missouri, South Carolina, Kentucky, Massachusetts, North Dakota, Oregon, Alabama, Illinois, North Carolina, Arkansas, Alaska, Maine, Washington, New Mexico, Tennessee, Michigan, New Hampshire, Florida, Georgia, Wisconsin, Nebraska, Louisiana, South Dakota, Utah, New Jersey, Mississippi and Delaware (Docket Entries # 325, 328, 329, 330, 331, 333, 336, 340, 341,

343, 346, 350, 354, 355, 361, 362, 365, 366, 367, 369, 370, 373, 375, 376, 378, 379, 380, 382, 386, 387, 390, 393, 394, 397, 399, 401, 402, 403, 404, 407, 412, 419, 425, 435, 438 and 451). Plaintiff, Lindsey K. Springer, has responded to the motions and upon due consideration of the parties' submissions, the Court makes its determination.

Plaintiff brings this action against all fifty states pursuant to 42 U.S.C. § 1983 seeking declaratory and injunctive relief. Specifically, Plaintiff seeks a declaratory judgment finding that states' election laws are unconstitutional and an injunction directing each state to place Plaintiff's name on the 2000 presidential election ballots to be distributed to each state's appointed Electors.

In their motions, Defendants request dismissal of Plaintiffs action on various grounds. One of the grounds raised by all Defendants is that Plaintiff's action is

barred by the Eleventh Amendment. Upon review, the Court concurs with Defendants and concludes that Plaintiff's action is precluded by the Eleventh Amendment. Because this issue is dispositive of Plaintiff's action, the Court shall not address the other grounds raised by Defendants in support of dismissal.

The Eleventh Amendment provides:

> The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted by Citizens of another State, or by Citizens or subjects of any Foreign State.

U.S. Const. Amend. IX. The Supreme Court's decisions establish that the Eleventh Amendment restricts federal jurisdiction not only over suits brought against a state by citizens of another state but also over suits brought against a State by its own citizens. Pennhurst State School & Hosp v. Halderman, 465 U.S. 89, 98, 100(1984); Hans v. Louisiana, 134 U.S. 1, 10(1890). This

jurisdictional bar applies regardless of the nature of the relief sought against a State. Pennhurst, 465 U.S. at 100.

The sovereign immunity afforded by the Eleventh Amendment, is not absolute. In Clark v. Barnard, 108 U.S. 436, 447(1883), the Supreme Court held that if a state waives its sovereign immunity and consents to suit in federal court, the Eleventh is not a bar. A State's waiver of Eleventh Amendment immunity, though, is not easily presumed. Any waiver by a state must be unequivocally expressed. Edelman v. Jordan, 415 U.S. 651, 673(1974)(a state's waiver of Eleventh Amendment immunity occurs only where stated by the "most expressive language" or by such "overwhelming implications" as will leave no room for doubt). Furthermore, "constructive consent" by a state is not sufficient to overcome sovereign immunity. Id. In addition, the Supreme Court has held that Congress may abrogate Eleventh Amendment

sovereign immunity without the state's consent. Fitzpartrick v. Bitzer, 427 U.S. 445, 456(1976). However, "Congress must express its intention to abrogate the Eleventh Amendment in unmistakable language in the statute itself." Atascadero State Hosp. v. Scalon, 473 U.S. 234, 243(1985). The Supreme Court will not infer Congressional abrogation of the Eleventh Amendment. Pennhurst, 465 U.S. 99.

In the instant case, Plaintiff has not cited to or referred to any state statutes or constitutional provisions wherein Defendants have expressly waived Eleventh Amendment immunity for Plaintiff's claims in this action. Atascadero, 473 U.S. at 238 n.1 (a state may effectuate a waiver of sovereign immunity by a state statute or constitutional provision). Nevertheless, Plaintiff, citing to Quern v. Jordon, 440 U.S. 332, 342(1979), suggests that a state's Eleventh Amendment immunity may be impliedly waived and that

Defendants have impliedly waived their Eleventh Amendment immunity or consented to suit by "acting outside [their] immunity." However, as previously discussed, a state's waiver of Eleventh Amendment immunity must be unequivocally expressed. Edelman, 415, U.S. 673. Quern does not, as suggested by Plaintiff, stand for the position that a state's waiver or consent to suit may be implied. Therefore, the Court finds that Plaintiff has failed to establish an effective waiver of sovereign immunity by Defendants.

Next, the Court must consider whether Congress has abrogated the state's sovereign immunity in unmistakable language in 42 U.S.C. § 1983. The Court finds no such unmistakable language in the statute. Furthermore, the court notes that the Supreme court has specifically held that Congress did not abrogate Eleventh Amendment immunity when it enacted § 1983. quern, 440 at 345.

In addition, the Court notes that the Supreme Court has held that a state is not a "person" for a purpose of a claim brought under § 1983. Will v. Michigan Department of State Police, 491 U.S. 58, 65(1989). In his response brief, Plaintiff argues that because Defendants raised as one of their ground for dismissal a lack of jurisdiction over their persons, the states are also to be considered "persons" for purpose of § 1983. Plaintiff, however has not cited any authority for his position. As the Supreme Court has specifically held that a state is not a person within the meaning of § 1983, the Court finds that Defendants' Fed.R.Civ.Pr. 12(b)(2) motions to dismiss for lack of personal jurisdiction do not constitute a waiver of the sovereign immunity afforded by the Eleventh Amendment for Plaintiff's action under § 1983.

In his response brief, Plaintiff additionally argues that because he only

seeks declaratory and prospective injunctive relief, the Eleventh Amendment does not bar his suit. However, as previously discussed, regardless of the nature of the relief sought against the state, the Eleventh Amendment prohibits suit in federal court against a state without its consent. Pennhurst, 465 U.S. at 100. While the Court recognizes that the Supreme Court has held that a suit may be brought against state officials in their official capacities for prospective injunctive relief, Ex parte Young, 209 U.S. 123, 155-56(1908), Plaintiff has not brought an action against state officials in their official capacities for prospective injunctive relief. Rather, he has brought an action against the fifty states themselves.

Because Defendants have not unequivocally waived their Eleventh Amendment immunity and Congress has not abrogated that immunity in its enactment of 42 U.S.C. § 1983, the Court finds that Plaintiff's suit

against Defendants is barred by the Eleventh Amendment and that Defendants' motions should be granted.

The Court notes that four defendants, Idaho, Iowa, Virginia and Wyoming, have not filed motions to dismiss. The Court, however, exercises its discretion and raises the Eleventh Amendment bar sua sponte as these Defendants. Mascheroni v. Board of Regents of University of California, 28 F. 3d,1554, 1558-1559(10th.Cir. 1994). For the same reasons above-stated, the Court finds that the Eleventh Amendment precludes Plaintiff's action against these Defendants and dismissal of the action against them is appropriate.

Based upon the foregoing, the motions to dismiss filed by Defendants, Maryland, West Virginia, Oklahoma, Minnesota, Connecticut, Montana, Indiana, hawaii, New York, Rhode Island, Kansas, Nevada, Texas, California, Arizona, Vermont, Ohio, Colorado,

Pennsylvania, Missouri, South Carolina, Kentucky, Massachusetts, North Dakota, Oregon, Alabama, Illinois, North Carolina, Arkansas, Alaska, Maine, Washington, New Mexico, Tennessee, Michigan, New Hampshire, Florida, Georgia, Wisconsin, Nebraska, Louisiana, South Dakota, Utah, New Jersey, Mississippi and Delaware (Docket Entries # 325,328, 329, 330, 331, 226, 340, 341, 343, 346, 350, 354, 355, 361, 362, 365, 366, 367, 369, 370, 373, 375, 376, 378, 379, 380, 382, 386, 387, 390, 393, 394, 397, 399, 401, 402, 403, 404, 407, 412, 419, 425, 435, 438 and 451) are **GRANTED**. The action of Plaintiff, Lindsey K. Springer, against these Defendants and Defendants, Idaho, Iowa, Virginia and Wyoming, is **DISMISSED** for lack of subject matter jurisdiction.

In light of the Court's dismissal of Plaintiff's action, the Court **DECLARES MOOT** Defendant, Louisiana's Motion to Dismiss for Failure to Comply with March 4, 1999, court

Order Directing Plaintiff to Serve Defendants with Amended Complaint on or before March 31, 1999 in accordance with Applicable Federal Rule Provisions(Docket Entry # 409) and Plaintiff, Lindsey K. Springer's Motion for Temporary Restraining Order and Preliminary Injunction (Docket Entries # 457-1 and # 457-2).

ENTERED this 9th day of November, 1999.

Michael Burrage
United States District Judge

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

LINDSEY K. SPRINGER,
Plaintiff-Appellant, No. 99-5227
v D.C. No. 99-CV-3-BU
STATE OF ALABAMA, et al.,
Defendants-Appellees

MARCH 24, 2000

ORDER AND JUDGEMENT

Before **Baldock, Henry and Lucero,** Circuit Judges.

Plaintiff-appellant Lindsey Springer brought suit against all fifty States alleging that their ballot access laws violate his constitutional rights. Holding that these claims were barred by the Eleventh Amendment immunity, the district court ruled in favor of forty-six defendants that filed motions to dismiss and dismissing the remaining claims sua sponte. We affirm and order Springer to show cause why we should not impose sanctions.

Springer apparently sent a letter to the appropriate officials in each of the fifty States asserting he will be thirty-five years of age by January 20, 2001, is a natural born

citizen, and has always resided in Oklahoma, and on that basis requested that his name be placed on the primary and general election ballots for President of the United States. The several States either rejected or ignored the request. As he has done so often, Springer responded by filing this instant lawsuit in federal court.

In general, the Eleventh Amendment bars suits in federal court against non-consenting States. See Seminole Tribe of Florida v. Florida, 517 U.S. 44, 54, (1996). Springer advances several meritless arguments as to why his own suit against every State in the Union is not so barred. It does not matter that Springer is seeking only declaratory and injunctive relief, because "the relief sought by a plaintiff suing a State is irrelevant to the question whether the suit is barred by the Eleventh Amendment." Id @ 58 Nor has he shown that the States have waived their immunity; there has been no express waiver,

and a "state...does not waive Eleventh Amendment immunity merely by appearing a suit." Mascheroni v. Board of Regents of the Univ. of California, 28 F.3d 1554, 1560(10th Cir. 1994). Likewise, his assertion that 42 U.S.C. § 1983 abrogates the Eleventh Amendment is baseless. See Quern v. Jordan, 440 U.S. 332, 343-45(1979).

Springer's assertions that the district court abused its discretion when it dismissed sua sponte his claims against four defendant States on Eleventh Amendment immunity grounds is equally meritless. See Mascheroni, 28 F.3d. at 1559. Because the application of Eleventh Amendment immunity is dispositive of Springer's Claim, we do not address the additional issues raised on appeal.

We find Springer's claim to be wholly without merit, and we consider the outcome of the appeal to have been so obvious as to render it frivolous. This is not the first time Springer has filed a meritless action in

federal court or brought a frivolous appeal. See Springer v. Infinity Group, No. 98-5182, 1999 W: 651391(10th Cir. Aug. 26, 1999)(affirming the district court's dismissal for failure to state a claim)(unpublished); Springer v. I.R.S., No. 5072, 1996 WL 164459(10th Cir. April 8, 1996)(imposing sanctions for frivolous appeal)(unpublished); cf Springer v. Hustler Magazine, No. 5117, 1999 WL 970242 at *1n1(10th Cir. October 28, 1999)(affirming dismissal on summary judgment and noting that two arguments on appeal were "utterly without merit")(unpublished); Buckner v. United States, No. 98-5057, 1999 WL 61071(10th Cir. Feb. 4, 1999(noting that the district court had granted summary judgment against the plaintiffs, including Springer, on their claim that federal taxation amounted to involuntary servitude)(unpublished). We possess the inherent power to impose sanctions to regulate our docket, promote

judicial efficiency, and deter frivolous filings. See Van Sickle v. Holloway, 791 F.2d 1431, 1437(10th Cir. 1986). "This Court need not endure baseless, repetitive appeals serving only to waste the resources of the court and the appellees." Smith v. Rubin, No. 97-1242, 1998 WL 99019, at *4(10th Cir. March 9, 1998)(unpublished). Therefore, we order Springer to show cause why he should not be sanctioned in the amount of $ 1000, payable to the Clerk of the United States Court of Appeals for the Tenth Circuit, as a limited contribution to the United States for the cost and expenses of this action, and be prohibited from filing any further complaints in the United States District Court, in any civil matter, excluding habeas corpus petitions, until he has filed with the clerk of this Court a notarized affidavit, in proper legal form, stating that he has satisfied this sanction.

Accordingly, we direct the clerk of this

Court to issue an order requiring Springer to show cause why the above sanction should not be imposed. Springer's response shall not exceed five pages. If the response is not received by the Clerk within ten days of the issuance of the order, the sanction shall be imposed and the clerks of this Court and United States District Court for the Northern District of Oklahoma are directed to return any prohibited filings to Springer.

We AFFIRM the judgment of the district court. The mandate shall issue forthwith.

ENTERED FOR THE COURT

Carlos F. Lucero
Circuit Judge.

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

LINDSEY K. SPRINGER,
Plaintiff-Appellant,
v No. 99-5227
STATE OF ALABAMA, et al.,
Defendants-Appellees.

APRIL, 2000

ORDER

The Court ordered Plaintiff-Appellant Lindsey Springer to show cause why we should impose a $ 1000 sanction in favor of the Court. The Court finds the sanction should be imposed. The Clerk is directed to refuse any filing of Mr. Springer until he has complied with this Order. (emphasis added)

The Court

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

LINDSEY K. SPRINGER,

Plaintiff-Appellant,

v. No. 99-5227

STATE OF ALABAMA, et al.,

Defendants-Appellees

APRIL 19, 2000

ORDER

Your petition for rehearing En Banc was submitted to each Judge in active service with the Tenth Circuit Court of Appeals and no judge requesting a poll to be taken, your petitioner rehearing En Banc is denied.

The Court.